

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MIGUEL L. DELA CRUZ Y LIBUCAN, ACCUSED-APPELLANT.***G.R. No. 101315. May 12, 1993*

Ponente: NARVASA, J.

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Sometime in September, 1990, the Anti-Narcotics Unit of the San Juan Police Station received reports that one Miguel dela Cruz was engaged in the sale of shabu in Santa Lucia Street, San Juan, Metro Manila. It appears that some of the members of that Unit had already been hearing about dela Cruz, a.k.a. "Luga," although they had not yet seen him personally. Corporal Jaime Blanco and Patrolman Cesar B. Turingan were assigned to the case.

Blanco and Turingan decided to entrap dela Cruz through a so-called "buy-bust" operation: Turingan would impersonate a shabu buyer; present himself to dela Cruz and ask to purchase some of the prohibited drug; and once dela Cruz took the bait, delivered the shabu to Turingan and received the money from the latter, he would be placed under arrest, and the shabu and money confiscated for use as evidence against him.

In the evening of September 12, 1990, Turingan dressed himself in nondescript clothing -- short pants and T-shirt -- and provided himself with a bicycle, and two (2) one-hundred peso bills, to be used as purchase money for the shabu. On one face of each of the bills, at the right lower portion, Turingan wrote his initials, "CBT." The serial numbers of the one-hundred peso bills were also copied in the police blotter by Pfc. Ricardo Marzo, viz.: "PM 60674 and JU 45557." Also entered in the police blotter prior to the departure of Blanco and Turingan was the plan to conduct a "buy-bust" operation; and upon the officers' return after the operation, the time of their return was also entered, "10:00 p.m., September 12, 1990."

Turingan, Blanco, and four other police officers proceeded to the house of Miguel dela Cruz, a small shanty built on a sidewalk, at Santa Lucia Street. It was raining heavily, and they had to wait for about an hour for the downpour to stop. When the rain abated, they saw Miguel come out of his house. Turingan went to him, on his bicycle, and asked to "score two (2) decks of shabu," i.e., buy two hundred pesos' worth of shabu. Miguel accepted the money tendered by Turingan-- the same two (2) marked one-hundred peso bills the serial numbers of which had been recorded in the police blotter, as above stated -- and went back inside his house, emerging moments later with two (2) plastic tea bags containing white crystalline granules which he handed over to Turingan. Turingan thereupon identified himself as a policeman and placed Miguel under arrest, as Turingan's companions moved in. Turingan retrieved the money from Miguel's person. He also placed his initials on the plastic bags given to him by Miguel.

Miguel dela Cruz was brought to the police station. There he was questioned by Pfc. Ricardo Marzo. The white substance in the plastic bag sold to Turingan by Miguel was sent to the Crime Laboratory Services of the Philippine National Police at Camp Crame, Quezon City. Upon examination and analysis by a forensic chemist, the substance was found to be methamphetamine hydrochloride (shabu), a regulated drug. The evidence was thereafter submitted to the Public Prosecutor who, after due preliminary investigation, filed an information with

the Regional Trial Court at Pasig, charging Miguel dela Cruz with the crime of violating Section 15, Article III of Republic Act No. 6425, as amended, in that "not being lawfully authorized to possess any regulated drug, * * (he, Miguel,) did * * willfully, unlawfully and feloniously sell and deliver 0.18 grams of white crystalline substance contained in two (2) transparent plastic bags, which were found positive for methamphetamine hydrochloride, which is a regulated drug * * ."

The facts just set out were narrated to the Regional Trial Court by the prosecution witnesses at the trial of Miguel dela Cruz after he had been arraigned and had entered a plea of innocent to the indictment. These witnesses were Turingan, the arresting officer and so-called "poseur-buyer," Marzo, the investigating patrolman; and Lt. Leslie Chambers, the forensic chemist.

The defense version of the facts is entirely different. The defense witnesses -- Miguel himself, and his mother, Purificacion Ribucan -- contradicted the police officers' story.

Miguel testified that he is a plumber, earning a minimum of P100.00 a day; he is a widower and with him live his mother and two (2) young children, aged seven and eight years. What happened, according to him, was that while he was in his house in the evening of September 12, 1990, a car suddenly stopped in front of his shanty from which three (3) men alighted. He recognized two of the men as police officers, having seen them in the neighborhood several times before while they were on patrol in a police car. They asked him what his name was and when he told them, they accused him of being a seller of shabu. Despite his denial of the accusation, he was held by the waist and his wallet was forcibly taken from him. The men entered Miguel's house although they had no search warrant. Miguel's mother, who was awakened by the men's flashlights which were being beamed at every corner of the shanty, remonstrated with the men, to no avail. The men found no shabu on Miguel nor inside his house, yet he was handcuffed, and made to go to the police station with the men on board the latter's automobile. On the way, the men kept on pressing him to admit to being a shabu vendor. At the police station, one of the men, Cpl. Blanco, extracted two (2) one-hundred pesos bills from the P800.00 contained in Miguel's wallet and gave them to the police officer investigating him. His wallet and its contents were never returned to him. He was not assisted by any lawyer during the investigation. The thrust of Miguel's testimony is that the shabu was "planted" by the policemen; i.e., that he was "framed," although there was no "bad blood" between him and them, and he could give no reason why the latter would arrest him as a drug-pusher without cause.

By her own testimony, Miguel's mother sought to corroborate his declarations.

After trial, the Regional Trial Court rendered judgment finding Miguel dela Cruz guilty beyond reasonable doubt of the crime charged, "illegal sale of methamphetamine hydrochloride (shabu), a regulated drug," imposing on him "the penalty of life imprisonment and ** a fine of thirty thousand pesos (P30,000.00)." It also directed the Branch Clerk of Court "to turn over the subject regulated drug to the Dangerous Drugs Board ** (for disposal) in accordance with its rules and regulations." The Court accorded superior credit to the prosecution's proofs, rejecting the defense theory of a "frame-up" which it described as "a very handy one and so easy to concoct and fabricate."

Through his counsel de officio -- a member of the Public Attorney's Office (PAO) -- Miguel dela Cruz appealed from this verdict. In this Court and in his behalf, the PAO submits that the Trial Court erred in holding that "the apprehending officers were presumed to have performed their duties regularly," "in giving credence to the testimonies of the prosecution witnesses and completely disregard(ing those) of the defense witnesses," "in not finding that the search conducted by the apprehending officers in the shanty of the accused is illegal as it violated his constitutional rights," and, in fine, "in finding the accused guilty beyond reasonable doubt as charged."

The PAO posits the absurdity of dela Cruz having readily agreed to sell shabu to a complete stranger and in an

open, public place.

There is nothing absurd in such a scenario. The selling of prohibited drugs to complete strangers, openly and in public places, has become a common occurrence, a sad fact of which this Court has taken notice and attributed to "the growing casualness of drug pushers in the pursuit of their illicit trade, as if it were a perfectly legitimate operation involving no particular caution or qualm of conscience." [1] This is particularly true in isolated transactions or sales in small quantities as in the case at bar; drug pushers have been observed to sell their prohibited wares to anyone who has the money to pay for the drug, be they strangers or not, in private as well as in public places. [2] Familiarity between the buyer and the seller seems neither required nor expected, the terms of the sale and the distribution of the prohibited drug being evidently of the essence and the exclusive consideration of the transaction. [3] It is not therefore unusual or improbable for a drug pusher to sell to a total stranger. [4] As this Court has pointed out in *People v. Paco*, a 1989 case: [5]

"Drug-pushing when done on a small level as in this case belongs to that class of crimes that may be committed at anytime and at any place. After the offer to buy is accepted and the exchange is made, the illegal transaction is completed in a few minutes. The fact that the parties are in a public place and in the presence of other people may not always discourage them from pursuing their illegal trade as these factors may even serve to camouflage the same. Hence, the Court has sustained the conviction of drug pushers caught selling illegal drugs in a billiard hall (*People v. Rubio*, G.R. No. 66875, June 19, 1986, 142 SCRA 329; *People v. Sarmiento*, G.R. No. 72141, January 12, 1987, 147 SCRA 252), in front of a store (*People v. Khan*, *supra*), along a street at 1:45 p.m. (*People v. Toledo*, G.R. No. 67609, November 22, 1985, 140 SCRA 259), and in front of a house (*People v. Policarpio*, G.R. No. 69844, February 23, 1988)."

The appellant's counsel would also make capital of the discrepancy between the actual serial numbers of the two (2) marked one-hundred peso bills, on the one hand, and the numbers written in the police blotter: the serial number of one of the bills, PM760674 having been noted as "PM60674," and the other bill, the serial number of which is JU45557, having been copied as "JU455-7." He theorizes that such a discrepancy, coupled with the testimony of Pat. Marzo that he conducted the investigation of Miguel dela Cruz and "blottered it in the police blotter" (sic), shows that the recording of the serial numbers could have taken place only upon the return of the entrapment team to the police station with their quarry.

Nothing in the record warrants such an inference. On the contrary, both documentary and testimonial evidence of the prosecution relating to the matter sustain the conclusion that the recording of the serial numbers of the bills was made prior to the "buy-bust" operation. Between the actual and the recorded numbers there is substantial identity -- PM760674, recorded as PM60674; JU45557, recorded as JU455-7. The discrepancies between them are plainly nothing but clerical errors, ascribable to carelessness or lack of concentration. As much may be inferred from the testimony of Pfc. Ricardo Marzo, [6] to wit:

"FISCAL: Could you tell the Honorable Court, what is the difference between the number in Exhibit H-1 [7] and the number in Exhibit E? [8]

A: Maybe it was actually omitted, the number 7 was omitted."

In any event, Marzo's testimony [9] leaves no doubt as to when the recording of the serial numbers was done:

"Q: With regards (sic) to you, what was your participation in this case?

A: I investigated the case.

Q: And aside from investigating the case, what else was your participation in this case? before the operation started?

A: I blotter (sic) the marked money before the operation.

Q: And you say you blotter (sic) the marked money before the operation, to what are you referring ** when you say you blotter (sic) the money?

A: The marked money used in the buy-bust operation.

Q: What is this blotter all about?

A: It was our SOP which we should have blottered (sic) the money we used in the operation.

* * * * *

Q With regards (sic) to the entry in the police blotter which is now marked as Exhibit H-1, when did you made (sic) the entries thereto (sic)?

A: The operation, Sir? The blotter?

Q: The serial number?

A: Right before the operation, Sir.

Q: Could you tell the Honorable Court when the operation started or when the actual buy-bust operation started, if you know?

ATTY. ALDEA: Your Honor please, I will object to that. The witness is not competent to testify because he has been saying, Your Honor, that he was the investigator or that he was the one who investigated.

COURT: But he also made the entry of the 2 P100.00 bill (sic) before the buy-bust operation. Witness may answer.

A: We leave (sic) our office at about 8:30 o'clock in the evening or past 8:00 o'clock in the evening of September 12, 1990 for the buy-bust operation to be conducted at Barangay Sta. Lucia.

Q: When did you blotter the serial number of the money, when or on what date or on (sic) what time?

A: At about 8:30 o'clock in the evening.

Q: On what date?

A: September 12, 1990, just about they leave for operation. (sic)."

Pfc. Marzo's statement that he "blottered it in the police blotter, Sir" -- which appellant contends is a tell-tale sign of a frame-up -- refers to the investigation being conducted by him and not to the serial numbers. This is obvious from the question to which that answer was given:[10]

"Q: And when they return back, they return back before 10:00 o'clock in the evening, what did you do when they return back at 10:00 o'clock in the evening of September 12, 1990? (sic)

A: When Cpl. Jaime Blanco investigated on the person of Miguel de la Cruz, I am conducting the investigation and blotted it in the police blotter, Sir (sic)."

The questioning had clearly shifted to what Pfc. Marzo had done at 10:00 o'clock in the evening after the "buy-bust" operation team had returned. Marzo's answer was that he conducted the investigation and "blotted it in the police blotter." The pronoun, "it," in his answer could not but refer to "investigation," the noun immediately preceeding. To say that "it" refers to the recording of the serial numbers would be contrary to the elementary rules of grammer and common sense.

All things considered, this Court is satisfied that the Regional Trial Court was correct in its analysis and assessment of the evidence and in convicting the appellant on the basis thereof.

WHEREFORE, the decision of the Court a quo dated April 16, 1991, in Criminal Case No. 1373-D, being in all respects in accord with the evidence and the law, is hereby **AFFIRMED**, with costs de officio.

SO ORDERED.

Padilla, Regalado, and Nocon, JJ., concur.

[1] Peo. v. Carpio, G.R. No. 88942, March 25, 1992; see also, Peo. v. Bagawe, G.R. Nos. 885215-16, April 7, 1992 and Peo. v. Castillo, G.R. No. 93408, April 10, 1992

[2] Peo. v. Santiago, G.R. No. 94472, March 3, 1992; Peo. v. Fabian, G.R. No. 83392, Dec. 10, 1991; Peo. v. de la Cruz, 191 SCRA 160

[3] Peo. v. Babac, 204 SCRA 968 (1991), citing Peo. v. Rumeral, G.R. No. 86320, Aug. 5, 1991 and Peo. v. Sanchez, 173 SCRA 305

[4] Peo. v. Castillo, G.R. No. 93408, April 10, 1992

[5] G.R. No. 76893, Feb. 27, 1989, 170 SCRA 681, cited in several subsequent decisions, including: Peo. v. Tandoy, 192 SCRA 28; Peo. v. Hilario, 196 SCRA 716; Peo. v. Carpio, *supra*; Peo. v. Mauryao, G.R. No. 84525, April 6, 1992; Peo. v. Bagawe, *supra*

[6] TSN, Feb. 18, 1991, p. 26

[7] The entry in the blotter: "PM60674"

[8] The actual number of the bill: "PM760674"

[9] TSN, Feb. 18, 1991, pp. 23, 28. *italics supplied*

[10] *Id.*, p. 29.

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